IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR Nos.292 and 293 of 1995
Date of decision:14.11.2006

The Commissioner of Income Tax, Patiala

....Petitioner

versus

Mr. Justice Kuldip Singh, Chandigarh

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. SK Garg Narwana, Advocate, for the revenue.
Mr. ML Garg and Mr. Akshay Bhan, Advocates for the respondent.

JUDGMENT:

Following question of law has been referred for the opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (for short, 'the Tribunal), arising out of its order dated 12.5.1993 in ITA Nos. 1534 and 1535/Chandi/1992, for the assessment years 1990-91 and 1991-92:-

> "Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that after discontinuance of his legal profession, the arrears of professional receipts are not taxable under section 176 (4) of the IT Act, 1961?"

The assessee claimed that professional receipt as advocate was not liable to be taxed after discontinuation of legal profession on elevation to the Bench. Reliance was placed on judgment of the Calcutta High Court

in **CIT v. Justice RM Datta** ,(1989)180 ITR 86. The Assessing Officer did not accept the claim, which view was upheld by the CIT(A). On further appeal, the Tribunal accepted the claim of the assessee having regard to provisions of Section 176(4) of the Income Tax Act, 1961 (for short, 'the Act'), as interpreted by the Calcutta High Court in **Justice RM Datta's** case (supra).

We have heard learned counsel for the parties and perused the findings recorded.

Learned counsel for the revenue has not been able to show any judgment taking a view contrary to what has been taken in **Justice RM Datta's** case (supra).

We are in respectful agreement with the view taken by the Calcutta High Court in **Justice RM Dutta's** case (supra).

In view of the above, the question referred is answered against the revenue and in favour of the assessee.

Reference is disposed of accordingly.

(Adarsh Kumar Goel)
Judge

November 14, 2006
'gs'

(Rajesh Bindal)
Judge